

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

WILSON PAGAN,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:17-CV-43
(GROH)**

**LIEUTENANT HOWELL,
Special Investigation Section Lieutenant,
LIEUTENANT BARRIENTES,
Lieutenant Special Housing Unit & S.I.S.,
MRS. BRIDGES, Unit Manager E2,
MS. NEWSOME, Case Manager E2,
MR. STAUFFER, Unit Counselor E2 and
UNITED STATES PENITENTIARY HAZELTON,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

Pending before the Court is the Report and Recommendation ("R&R") of United States Magistrate Judge Robert W. Trumble. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued his R&R [ECF No. 68] on December 21, 2018. In his R&R, Magistrate Judge Trumble recommends that the Plaintiff's Complaint [ECF No. 1] be dismissed as to USP Hazelton with prejudice and as to the remaining Defendants without prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a *de novo* review of the magistrate judge's findings where objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objection is made. Thomas v. Arn, 474 U.S. 140,


150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a plaintiff's right to appeal this Court's Order. 28.U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

Objections to Magistrate Judge Trumble's R&R were due within fourteen plus three days of service. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Service was accepted by the *pro se* Plaintiff on December 26, 2018. ECF No. 69. To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Trumble's Report and Recommendation [ECF No. 68] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein. Therefore, the Plaintiff's Complaint [ECF No. 1] is **DISMISSED WITH PREJUDICE** as to USP Hazleton and **DISMISSED WITHOUT PREJUDICE** as to the remaining Defendants. Further, Defendants' motion to dismiss, or, alternatively, for summary judgment [ECF No. 53] is hereby **GRANTED**.

This matter is **ORDERED STRICKEN** from the Court's active docket. The Clerk of Court is **DIRECTED** to mail a copy of this Order to the Plaintiff by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

DATED: January 22, 2019


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE